

**Testimony of
Christopher J. Warner
Chief Counsel, Corporate and Regulatory
Pacific Gas and Electric Company
On Governor's Reorganization Plan for Energy
Before Little Hoover Commission
May 25, 2005**

Pacific Gas and Electric Company (PG&E) is pleased to testify in support of the Governor's Reorganization Plan for Energy. The Governor's proposal is a bold and positive step toward securing reliable and reasonably priced energy supplies for California consumers and businesses now and in the future. Although PG&E reserves judgment on some details of the proposal until we have a chance to review the specific statutory language, we believe that the Reorganization Plan, with the modifications discussed below, will efficiently consolidate energy policy functions in one State agency and help California speak with one voice both inside the State and in other regions and before the Federal government on critical energy policy issues.

PG&E provides electricity to 4.9 million customers and natural gas to 4.1 million customers in northern and central California. Delivering safe and reliable energy to our customers is not an energy policy issue for us – it is our job, 24/7, and has been for 100 years. The Governor's energy reorganization proposal helps us do our job, and helps achieve California's energy policy goals, because it ensures that all of the key energy policymakers in the State – the Energy Commission, the Electricity Oversight Board, the Resources Agency, and even the Public Utilities Commission and California Independent System Operator – work together in a coordinated, comprehensive fashion.

Just as importantly, the Governor's proposal improves the accountability of our energy policymakers, because it ensures that Californians know “the buck stops here” when they contact the new Department of Energy. Instead of having to call four or five different State agencies in

order to answer a simple question such as “what are we doing to keep the lights on this summer?” or “who do I talk to about buying a solar energy system?” every Californian – and every member of the Legislature and other elected officials, for that matter – will know that the Department of Energy is the “go to” energy policymaker in the State.

PG&E understands that “one stop shopping” for energy policymaking may raise questions regarding the traditional roles of some State energy agencies, such as the Public Utilities Commission and the Energy Commission. In addition, California is not an “island” in energy markets, but is part of large regional and national markets for electricity and natural gas regulated by Federal agencies such as the Federal Energy Regulatory Commission. For this reason, PG&E is reserving judgment and requesting clarification on some practical questions relating to the Governor’s proposal. These include the following:

1. Transfer of Electric Transmission Line Siting Jurisdiction From the Public Utilities Commission to the Department of Energy and California Energy Commission. The Governor’s plan proposes to transfer the “permitting functions” for electric transmission lines from the Public Utilities Commission and its staff to the California Energy Commission and Department of Energy, respectively. However, it is not clear whether the transferred jurisdiction is intended to encompass transmission “siting,” transmission “need” determinations, transmission “rates,” or some combination thereof. Today, under existing California and federal laws and Public Utilities Commission decisions, the need for electricity transmission lines to ensure reliability or promote economic efficiency is determined by the California Independent System Operator (CAISO), and the rates for electricity transmission lines are determined exclusively by the Federal Energy Regulatory Commission (FERC). In addition, the electric transmission planning functions which the Governor’s proposal would vest in the new

Department of Energy Office of Market Analysis – electric grid reliability, transmission planning standards, interconnection, congestion management, and local electric reliability contracts – are already responsibilities performed by the CAISO under the state law, CPUC decisions and FERC tariffs establishing the CAISO. The Public Utilities Commission retains authority to determine the retail ratemaking methodology under which the costs of these electric transmission projects are recovered from retail customers consistent with the transmission rates set by FERC. Issues relating to the siting and environmental impacts of electric transmission lines already are subject to multiple federal and state jurisdictions under the overall framework of the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA), and various federal and state land use and environmental permitting laws and regulations. Unfortunately, the Governor’s reorganization proposal contains little detail or description on how this patchwork of Federal, state and local jurisdiction is to be reconciled by the proposal, other than the general statement that “permitting functions” are to be transferred to the Department of Energy and Energy Commission. PG&E agrees that consolidation and “one stop shopping” for siting permits for major electric transmission lines is a worthy goal of the Governor’s proposal. However, we are unable to judge the merits of the proposal without more detail on how other functions, such as transmission reliability planning, need determinations, and ratemaking, are dealt with. In the absence of any demonstration that the existing responsibilities of the CAISO and CPUC over electric transmission can be more efficiently and expeditiously performed by the new Department of Energy and Energy Commission, PG&E would recommend that this part of the Governor’s proposal be deleted.

2. Transfer of Jurisdiction Over Natural Gas Storage and Infrastructure Projects From Public Utilities Commission to Department of Energy and California Energy Commission.

Under current California and federal law, interstate natural gas pipeline projects are subject to exclusive FERC permitting jurisdiction for the purpose of determining need and wholesale rates, and retail natural gas infrastructure and storage projects are subject to Public Utilities Commission jurisdiction on need and retail rates. In addition, the Public Utilities Commission also regulates the high-pressure utility natural gas transmission and storage systems in California that interconnect with the interstate pipelines and bring the gas to the “citygate” where it enters the utility distribution systems. This authority over the gas utility transmission-level assets is vested in the Public Utilities Commission by virtue of the “Hinshaw Amendment” to the federal Natural Gas Act. There do not appear to be any significant “bottlenecks” in Public Utilities Commission permitting of natural gas infrastructure projects, and issues relating to FERC jurisdiction over interstate gas facilities (e.g. Liquefied Natural Gas facilities) will exist without regard to which State agency has lead policy or siting authority. The Governor’s proposal does not contain any explanation or rationale for changing the current jurisdictional and State agency responsibilities over natural gas facilities, and therefore the purpose of the proposal should be further clarified. In the absence of any demonstration that the existing responsibilities of the Public Utilities Commission over natural gas infrastructure can be more efficiently and expeditiously performed by the new Department of Energy and Energy Commission, PG&E would recommend that this part of the Governor’s proposal be deleted.

3. Exclusive Representation by Department of Energy Before FERC On Ratepayer Interests. The Governor’s proposal recommends that a division within the new Department of Energy, the Office of Energy Market Oversight, be the sole agency of the State of the California with authority to represent the interests of ratepayers before FERC on energy matters. This apparently would mean that neither the Public Utilities Commission nor the California Energy

Commission would retain authority to represent the State of California in ratemaking or rulemaking proceedings at FERC. PG&E agrees that on broad energy policy issues at FERC, California needs to speak with one coordinated voice. However, there are proceedings at FERC that from time to time raise issues which uniquely impact retail electricity or natural gas customers in a manner inconsistent with orders, decisions or rules adopted by the Public Utilities Commission or with energy plans adopted by the Energy Commission. In these proceedings, the CPUC and/or Energy Commission have intervened and actively participated, sometimes adverse to PG&E and other California utilities, and sometimes in agreement and actively allied with California utilities. These proceedings also are often highly technical and legally intensive, and the staff of the CPUC and Energy Commission are often the only representatives of the State capable of competently participating in the proceedings (even where PG&E and other utilities may be vigorously opposed to the positions they take on the merits.) For this reason, the Governor's proposal should be clarified as to whether its intent is to absolutely prohibit CPUC and Energy Commission participation in all FERC proceedings, or only in those proceedings that involve broad energy policy issues.

PG&E believes this testimony responds to the issues listed in the Little Hoover Commission's May 16, 2005, letter of invitation, and remains available to provide additional information and details in response to further questions at the hearing of the Commission on May 25, 2005.

PG&E commends Governor Schwarzenegger for his leadership in tackling the tough energy policy issues facing our State. The Governor's energy reorganization proposal deserves support and rapid approval, and PG&E looks forward to working with the Little Hoover Commission and other interested parties to make this proposal a reality.

